

CHAPTER 26.1-48

AIRCRAFT AFTERMARKET RISK CONTRACTS AND INSURANCE

26.1-48-01. Definitions. As used in this chapter:

1. "Aftermarket risk insurance" means aircraft and aircraft component product and completed operations liability insurance that conforms with sections 26.1-48-02 and 26.1-48-03.
2. "Aircraft" means general aviation light craft that is powered and intended to fly above the ground; is designed to carry one person or more, but with a maximum seating capacity of fewer than twenty passengers; and weighs less than twelve thousand five hundred pounds [5669.9 kilograms].
3. "Aircraft component" means a manufactured part or assembly intended for use in the construction, replacement, or repair of an aircraft. The term includes any complete aircraft subsystem, including the aircraft engine, that carries its own manufacturer's warranty or services provided separately from the warranty of the manufacturer of the aircraft.
4. "Aviation manufacturer" means a manufacturer of aircraft or aircraft components who has its place of manufacture and place of production of aircraft or aircraft components located within this state. The term includes a manufacturer located in this state who imports raw materials, components, and aircraft subassemblies from outside the state for manufacturing purposes. The term also includes a person who modifies, maintains, alters, repairs, or installs aircraft components in aircraft in accordance with federal aviation administration regulations and holds a repair station certificate issued by the federal aviation administration.

26.1-48-02. North Dakota aftermarket risk contract. The sale of aircraft and aircraft components sold by an aviation manufacturer and the performance of any modification, maintenance, alteration, repair, or installation of components in aircraft in this state are governed by an aftermarket risk contract. The contract between the seller or aviation manufacturer and the purchaser must be executed at the time of purchase and reconsidered at each subsequent resale. The first and subsequent seller or aviation manufacturer shall agree to be bound by North Dakota law and the aftermarket risk contract or to provide a fully paid aftermarket product liability insurance policy that covers exposure to tort liability within the United States. The option of providing the insurance policy applies only to aircraft or aircraft components that sell for more than two thousand dollars.

26.1-48-03. Aftermarket risk insurance requirements - Encumbrances.

1. An aftermarket risk insurance policy purchased pursuant to section 26.1-48-02 must hold harmless all aviation manufacturers that manufactured, modified, maintained, repaired, or altered the aircraft or aircraft component assembled or first sold in this state.
2. The aviation manufacturer or seller of the aircraft or aircraft component may offer in the sales contract aftermarket risk insurance based on continued choice of North Dakota law. The aftermarket risk insurance option must be attached to the original sales contract as a lien on the aircraft holding the first owner and each subsequent owner financially responsible for the cost of purchasing and maintaining aftermarket risk insurance and binding the owner to governance by North Dakota law. An aftermarket insurance obligation must be recorded as a lien on the aircraft at the federal aviation administration aircraft registry.

26.1-48-04. Stabilization of aftermarket risk insurance market.

1. An aviation manufacturer and a purchaser of an aircraft or aircraft component which intend to be bound by North Dakota law must be covered by insurance that meets the requirements of insurance laws of this state. The sales contract must include a dispute resolution procedure for aftermarket risk contracts and insurance contracts.
2. An aftermarket risk insurance provider domiciled in this state may limit coverage to include any caps and limitations permitted by law at the time of the first sale of the product.
3. Upon resale of an aircraft or aircraft component, the purchaser agrees to purchase insurance and the insurance carrier shall provide evidence of coverage. A default on the insurance may reinstate, by contract, the lien back to the aviation manufacturer. An aftermarket risk contract may include a requirement for removal of the aircraft or aircraft component from service, consent to be governed by North Dakota law, and purchase of additional passenger and public risk insurance coverage.
4. An aviation manufacturer or value-added reseller shall provide confidential access to data necessary for actuarial analysis by aftermarket insurance carriers to assist in maintaining a competitive insurance market with a choice of alternative carriers.

26.1-48-05. Financial responsibility. An owner of an aircraft or aircraft component manufactured in this state shall provide proof of financial responsibility in the amount of one hundred thousand dollars, per occurrence, for property damage and personal injury or death on the ground resulting from the use of the aircraft or aircraft component.